

Decision 04-02-017 February 11, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding the
Implementation of the Suspension of Direct
Access Pursuant to Assembly Bill 1X and
Decision 01-09-060.

Rulemaking 02-01-011
(Filed January 9, 2002)

**DECISION AWARDING INTERVENOR COMPENSATION
TO THE UTILITY REFORM NETWORK**

This decision awards The Utility Reform Network (TURN) \$219,866.00 for its contribution to Decision (D.) 02-03-055, D.02-04-067, D.02-11-022, D.02-12-027, D.03-04-030, D.03-05-034, D.03-06-035, D.03-07-030, D.03-07-028 and D.03-08-076 regarding direct access cost responsibility surcharges and related issues. This figure represents \$ 292.00 less than TURN's requested amount of \$ 220,158.00 because we have reduced the requested 2003 hourly rate of \$250 for attorney Matthew Freedman to \$225, have disallowed \$39 of undocumented miscellaneous expenses, and have adjusted the requested amount for a typographical error.

1. Background

The 10 decisions for which TURN seeks compensation concern the suspension of direct access and the establishment of cost responsibility surcharges for both direct access and departing load customers for the three largest California investor-owned utilities, Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California

Edison Company (Edison). Further details concerning these decisions are discussed in the substantial contribution section below.

No party opposes TURN's request for compensation.

2. Requirements for Awards of Compensation

Intervenors who seek compensation for their contributions in Commission proceedings must file requests for compensation pursuant to Pub. Util. Code §§ 1801-12. (Unless otherwise noted, all statutory citations are to the Public Utilities Code.)

A. Timeliness of Notice of Intent

Section 1804(a) requires an intervenor (also termed "customer" in the statute) to file a notice of intent (NOI) to claim compensation within 30 days after the prehearing conference or by a date established by the Commission. The NOI must present information regarding the nature and extent of the customer's planned participation and an itemized estimate of the compensation the customer expects to request. The NOI may request a finding of eligibility for compensation.

Here, TURN filed a timely NOI on July 24, 2002. The Administrative Law Judge (ALJ) issued an August 28, 2002 ruling finding TURN eligible for compensation in this proceeding.

B. Customer Status

Pursuant to D.98-04-059, this decision must determine whether the intervenor is a customer, as defined in § 1802(b), and whether the intervenor is 1) a participant representing consumers, 2) a representative authorized by a customer, or 3) a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.

TURN meets the third definition of customer, as set forth in § 1802(b). Specifically, TURN is organized to represent and advocate the interests of consumers of public utility services in California. TURN qualifies as a customer because it is an organization authorized by its articles of incorporation to represent the interests of consumers, a portion of which are residential customers.¹

C. Significant Financial Hardship

Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Section 1802(g) defines “significant financial hardship”:

“Significant financial hardship” means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding. Alternatively, the customer may make the required showing in the request for an award of compensation.

A rebuttable presumption of eligibility exists for TURN. The August 28, 2002 ALJ ruling found that TURN had demonstrated significant financial hardship in its NOI. No party has attempted to rebut that presumption.

¹ In its NOI, TURN demonstrated that its articles of incorporation specifically authorizes TURN’s representation of the interests of residential customers.

D. Timeliness of Compensation Request

Section 1804(c) requires an eligible customer to file a request for an award within 60 days of issuance of a final order or decision by the Commission in the proceeding. TURN has filed its request for an award of compensation on October 27, 2003, within 60 days of the August 28, 2003 issuance of D.03-08-076 [order denying rehearing issues litigated by TURN]. Although D.03-08-076 does not close this proceeding, it is a final order or decision, and provides a convenient demarcation point in this proceeding. *Cf.* Rule 76.72 of our Rules of Practice and Procedure. Thus, TURN's request is timely.

3. Substantial Contribution to Resolution of Issues

Under § 1804(c), an intervenor requesting compensation must provide “a detailed description of services and expenditures and a description of the customer's substantial contribution to the hearing or proceeding.”

Section 1802(h) states that “substantial contribution” means that,

in the judgment of the commission, the customer's presentation has substantially assisted the commission in the making of its order or decision because the order or decision has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer. Where the customer's participation has resulted in a substantial contribution, even if the decision adopts that customer's contention or recommendations only in part, the commission may award the customer compensation for all reasonable advocate's fees, reasonable expert fees, and other reasonable costs incurred by the customer in preparing or presenting that contention or recommendation.

Section 1804(e) requires the Commission to issue a decision that determines whether the customer has made a substantial contribution and what amount of compensation to award. The level of compensation must take into

account the market rate paid to people with comparable training and experience who offer similar services, consistent with § 1806.

As provided in § 1802(h), a party may make a substantial contribution to a decision in one of several ways. It may offer a factual or legal contention upon which the Commission relied in making a decision, or it may advance a specific policy or procedural recommendation that the ALJ or Commission adopted. A substantial contribution includes evidence or argument that supports part of the decision even if the Commission does not adopt a party's position in total.²

TURN alleges that its involvement was extensive and included participation in workshops, settlement negotiations with parties on certain issues, written filings, hearings, preparation of comments and briefs, and applications for rehearing. TURN also sought judicial review of Commission decisions in this proceeding. However, this request excludes all time and expenses associated with its request for judicial review.

Although, according to TURN, it was not successful on every argument presented, the decisions reflect the significant impacts of TURN's advocacy. TURN believes it made a substantial contribution because the Commission adopted one or more of its recommendations in every major issue area it addressed in this proceeding. TURN also states that when its position did not prevail, its position was nonetheless embraced by either the ALJ's proposed decision or an alternate decision supported by one or more Commissioners.

² The Commission has provided compensation even when the position advanced by the intervenor is rejected. *See* D.89-03-063, 1989 Cal. PUC LEXIS 195 (awarding San Luis Obispo Mothers For Peace and Rochelle Becker compensation in Diablo

Footnote continued on next page

We now discuss TURN's contributions to the specific decisions for which it requests compensation.

**A. Substantial Contribution to D.02-03-055 and D.02-04-067
(Implementation of the suspension of Direct Access and
Adoption of Exit Fees)**

D.02-03-055 addressed the date for suspending direct access and rules to implement the suspension. TURN advocated that direct access suspension should be retroactive to July 1, 2001, and that no renewals, assignments, and add-ons of new load should be permitted. TURN also addressed the necessary features of any exit fee that might be adopted in lieu of a July 1, 2001 suspension date. The ALJ adopted virtually all of TURN's arguments, and that resolution was supported by several Commissioners. However, the alternate retained the September 20, 2001, suspension date and was ultimately approved by a majority of the Commission.

D.02-03-055 adopted several of TURN's arguments. The decision prohibited add-ons of new accounts or new locations to existing direct access contracts, as advocated by TURN. The alternate was modified to explicitly state that the cost responsibility surcharges would be levied on direct access customers to prevent cost shifting. Another section of the alternate was eliminated after TURN criticized it in comments.

TURN thereafter applied for rehearing, and D.02-04-067 granted a limited rehearing on the legality of the switching exemption which TURN raised. This decision also modified D.02-03-055 in response to TURN's arguments by

Canyon Rate Case because their arguments, while ultimately unsuccessful, forced the utility to thoroughly document the safety issues involved).

adopting a “bundled ratepayer indifference” standard for preventing cost shifting through the adoption of the direct access surcharges.

Based on the above activities, TURN made a substantial contribution to D.02-03-055 and D.02-04-067.

**B. Substantial Contribution to D.02-11-022 and
D.02-12-027 (Adopting a Methodology for Determining
Direct Access Surcharges)**

TURN states that, following legal briefing on the issue of the Commission’s authority to assess cost responsibility surcharges on direct access and departing load customers, the next phase of this proceeding consisted of very challenging and complex hearings to determine how to develop exit fees or surcharges for these customers. The issues were ultimately trifurcated, with direct access, customer-generation departing load, and municipal departing load customers addressed in separate decisions.

D.02-11-022 addressed the cost responsibility surcharge for direct access customers. The Commission found, consistent with TURN’s position, that the Commission had the authority to impose a cost responsibility surcharge on direct access load. The Commission also agreed with TURN on a large number of technical and policy issues involved in adopting the appropriate calculation of the cost responsibility surcharge.

D.02-12-027 considered and rejected a number of applications for rehearing of D.02-11-022. In so doing, the Commission relied in part upon TURN’s briefs and comments in the proceeding, as well as TURN’s response to applications for rehearing.

Based on the above activities, TURN made a substantial contribution to D.02-11-022 and D.02-12-027.

C. Substantial Contribution to D.03-04-030 (Cost Responsibility Surcharge for Customer Generation Departing Load)

TURN joined a number of other parties in submitting a settlement agreement addressing the application of cost responsibility surcharge components to various types of customer generation departing load. The ALJ's proposed decision endorsed the settlement with minor modifications. The Commission, however, rejected the settlement and based its decision on the underlying record. Nonetheless, D.03-04-030 stated that the settlement agreement assisted the Commission considerably in defining the issues and coming to a decision. (See 2003 Cal. PUC LEXIS 246 *69.) The decision also embraced several positions which TURN advocated separate from the settling parties. Based on the above activities, TURN made a substantial contribution to D.03-04-030.

D. Substantial Contribution to D.03-05-034 and D.03-06-035 (The "Coming and Going" Rules)

As stated above, D.02-04-067 granted a limited rehearing of D.02-03-055 concerning the legality of the switching exemption to the suspension of direct access. D.03-05-034 addressed this issue after the rehearing, and adopted detailed rules for customers "coming and going" between direct access and bundled service. Two Commissioners supported TURN's legal argument that the switching exemption violates Water Code § 80110, and one Commissioner issued an alternate embracing this position. However, a majority of the Commission upheld the switching exemption. D.03-05-034 adopted several of TURN positions, including the requirement for direct access customers returning to bundled service to make a three-year commitment to stay on that service option, and the requirement that returning direct access customers retain

responsibility for previous direct access cost responsibility surcharge undercollections.

TURN sought rehearing of D.03-05-034 on the legality of the switching exemption, which lead to D.03-06-035. Although two Commissioners supported TURN's legal argument, the majority denied TURN's application for rehearing. However, that decision presented an additional argument in support of the legality of the switching exemption, which TURN characterizes as more robust.

Based on the above activities, TURN has made a substantial contribution to D.03-05-034 and D.03-06-035.

**E. Substantial Contribution to D.03-07-030
(Review of Cost Responsibility Surcharge Cap
and Related Issues)**

In D.03-07-030, the Commission addressed certain issues not finally resolved in D.02-11-022, including the cap on the direct access cost responsibility surcharge and the interest rate to apply to the undercollected balance resulting from the cap. Two Commissioners supported an alternate adopting almost all of TURN's positions, but a majority of the Commission accepted TURN's positions only in part. D.03-07-030 agreed with TURN's fallback position, supported by other parties as well, that at a minimum, all direct access cost responsibility surcharge undercollections should be repaid by the expiration of the last California Department of Water Resources (DWR) power contracts in 2011. The Commission also adopted an interest rate on the undercollection that was higher than the short-term commercial paper rate or the DWR bond rate advocated by a number of parties, although the adopted rate was less than the interest rate recommended by TURN. The Commission also adopted numerous other more technical issues advocated by TURN.

Based on the above activities, TURN has made a substantial contribution to D.03-07-030.

F. Substantial Contribution to D.03-07-028 and D.03-08-076 (Municipal Departing Load)

TURN's participation on the issue of a cost responsibility surcharge for municipal departing load was limited to legal argument supporting the Commission's authority to impose such charges, and testimony asserting that DWR did not take into account the potential migration of customers from investor-owned utilities to municipal utilities in entering into its long-term supply contracts. D.03-07-028 adopted both of TURN's positions and D.03-08-076 denied rehearing on the issues raised by TURN.

Based on the above activities, TURN has made a substantial contribution to D.03-07-028 and D.03-08-076.

G. Summary on Substantial Contribution

In summary, based on the foregoing discussion, we agree that TURN made a substantial contribution to these 10 decisions. We address the reasonableness of the compensation amount TURN requests in the next section.

4. The Reasonableness of Requested Compensation

TURN requests \$220,149.00, as corrected for a clerical error³, as follows:

<u>Attorneys Fees</u>					
M. P. Florio	17.75 hours	X	\$350.00(2001)	=	\$ 6,213.00
M.P. Florio	258.25 hours	X	\$385.00(2002)	=	\$ 99,426.00
M.P. Florio	0.50 hours	X	\$192.00(2002) comp.	=	\$ 96.00
M.P. Florio	146.75 hours	X	\$435.00(2003)	=	\$ 63,836.00
M.P. Florio	18.00 hours	X	\$217.00(2003) comp.	=	\$ 3,906.00
M. Freedman	86.00 hours	X	\$200.00(2002)	=	\$ 17,200.00
M. Freedman	9.75 hours	X	\$250.00(2003)	=	\$ 2,438.00
R. Finkelstein	5.75 hours	X	\$340.00(2002)	=	\$ 1,955.00
				Subtotal	\$195,070.00
<u>Expert Witness Costs</u>	<u>JBS Energy, Inc.</u>				
W. Marcus	83.74 hours	X	\$175.00(2002)	=	\$ 14,655.00
W. Marcus	4.08 hours	X	\$185.00(2003)	=	\$ 755.00
J. Nahigian	4.75 hours	X	\$115.00(2002)	=	\$ 546.00
JBS travel expenses					\$ 90.00
				Subtotal	\$ 16,046.00
<u>Other Costs</u>					
Photocopies					\$ 7,552.00
Postage					\$ 1,442.00
Misc. Expenses					\$ 39.00
				Subtotal	\$ 9,033.00

TOTAL \$220,149.00

³ TURN requests \$220,158.00 but makes a clerical error in its calculation of Florio's requested compensation for 2003. [18 hours x \$217.00 should be \$3906, not \$3915.] TURN rounds to the nearest dollar, which we find appropriate.

A. Overall Benefits of Participation

In D.98-04-059, the Commission adopted a requirement that a customer must demonstrate that its participation was “productive,” as that term is used in § 1801.3, where the Legislature gave the Commission guidance on program administration. In that decision, we discuss the requirement that participation must be productive in the sense that the costs of participation should bear a reasonable relationship to the benefits realized through such participation. Customers are directed to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. This exercise assists us in determining the reasonableness of the request and in avoiding unproductive participation.

TURN notes that it would be extremely difficult to assign a dollar value to this proceeding or its contribution, because this proceeding dealt primarily with allocating costs among different types of customers, and total utility revenue requirements were not at issue. While we cannot establish a dollar amount, hundreds of millions of dollars, covering a multi-year period, were at stake. TURN was successful overall in assuring that bundled service customers would not bear an excessive amount of the costs as a result of direct access and departing load customers departing from the bundled portfolio, or departing from utility service altogether. We therefore find that TURN’s work was productive.

B. Hours Claimed

TURN documents its claimed hours by presenting a daily breakdown of the hours of its attorneys, accompanied by a brief description of each activity. The hourly breakdown reasonably supports the claim for total hours.⁴

The Commission has often awarded full compensation even where the intervenor's positions were not adopted in full, especially in proceedings with a broad scope. (See D.98-04-028, 79 CPUC2d 570, 573-574.) Here, TURN achieved a high level of success on the issues it raised. In the areas where we did not adopt TURN's position in whole or in part, we benefited from TURN's analysis and discussion of all of the issues which it raised. However, we note that TURN broke down its efforts by issue; had we needed to eliminate certain issues from the award, this breakdown would have facilitated the process.

C. Hourly Rates

1. Michel P. Florio

TURN seeks an hourly rate of \$350 for work performed by Florio in 2001, and \$385 for his work in 2002. The Commission has previously approved each of these rates for work performed by Florio in those years, and we find these rates reasonable.⁵

TURN seeks an hourly rate of \$435 for work performed by Florio in 2003. Florio has practiced before the Commission on energy-related issues for 25 years.

⁴ As the Commission requires, TURN seeks compensation at half the usual hourly rate for hours devoted to the preparation of this compensation request.

⁵ The Commission adopted a rate of \$350 for Florio in 2001 in D.02-06-070 (2002 Cal. PUC LEXIS 375 *32) and a rate of \$385 for 2002 in D.02-09-040 (2002 Cal. PUC LEXIS 599 *11).

He was admitted to the California Bar in 1978 after earning his law degree (J.D.) from New York University Law School of Law and a Master's Degree in Public Affairs (M.P.A.) from the Woodrow Wilson School of Public and International Affairs at Princeton University. In mid-1990, Florio was named TURN's Senior Attorney, with supervisory responsibility for all of TURN's legal advocacy. In recent years, Florio served on the original governing boards for both the Power Exchange (PX) and the Independent System Operator (ISO), and was reappointed to the ISO board by the Governor after its reconstitution in early 2001.

TURN believes that Florio's 25 years of legal experience before the Commission, as well as his track record of analytical and advocacy work, and formal recognition of that record by his appointments to the PX and ISO board, equate him to a high-end partner at a law firm. Thus, TURN believes that the comparable market rates should be in the high-end partner billing rates.

TURN justifies the increased attorney fee rate for Florio by citing to the two most recent *Of Counsel* Annual Surveys of the Nations 700 Largest Law Firms, including rates for major firms in San Francisco. The result of the 2000/2001 survey, which reflects data through August 1, 2000, demonstrates that the average partner rate for 2000/2001 is \$360 an hour, with an average low-end rate of \$270 and an average high-end rate of \$450. The 2002/2003 survey, (which reflects data through January 1, 2002), demonstrates that the average partner rate is \$400, with an average low-end rate of \$287 and a high-end rate of \$512. TURN argues that because the 2002/2003 survey only reflects data through January 1, 2002, a 5% increase for 2003 rates would make the average partner hourly rate closer to \$420, and the high-end partner hourly rate closer to \$537.

Florio requests a 13% increase over the rate we approved for him in 2002, which is a substantial increase when viewed on a year-to-year basis. However, based upon Florio's experience, his work performed in this proceeding, and a comparison of market rates for attorney of similar experience and qualifications, we agree with TURN that it is reasonable to award Florio a rate of \$435 per hour for the work performed in 2003.

2. Matthew Freedman

TURN seeks an hourly rate of \$200 for work performed by Freedman in 2002. The Commission has previously approved the \$200 rate for work performed by Freedman in 2002, and we find this rate reasonable.⁶

TURN seeks an hourly rate of \$ 250 for work performed by Freedman in 2003.⁷ Freedman graduated from Harvard Law School in 1999, and from Columbia University in 1991. He joined TURN in early 2000, bringing with him extensive experience in energy policy and regulation. From 1993 through 1998, Freedman served as a Senior Energy Policy Analyst for Public Citizen's Critical Mass Energy Project, where his work involved research, writing, and legislative advocacy on a variety of energy policy issues including electric deregulation at the national and state levels. In 1998 and 1999, Freedman was a Policy Analyst for Massachusetts Public Interest Research Group, performing policy analysis and legal research on a variety of energy-related issues arising through restructuring of the electric industry.

⁶ See D.03-04-011, 2003 Cal. PUC LEXIS 219 * * 24-25.

⁷ TURN also requests this 2003 hourly rate for Freedman in its compensation request in Rulemaking 01-10-024. We have relied on information filed in that docket to evaluate the reasonableness of Freedman's requested hourly rate for 2003.

TURN believes that Freedman's increase in responsibility and additional experience also justify this increase. Specifically, TURN states that Freedman had primary and often sole responsibility for the development and presentation of TURN's position on substantive issues, and his background on energy issues combined with strong advocacy skills allowed TURN to rely on Freedman both as lead lawyer and analyst for many issues. Thus, TURN believes that the comparable market rates should be in the mid-range associate billing rates.

TURN justifies the increased attorney fee rate for Freedman by citing to the two most recent *Of Counsel* Annual Surveys of the Nations 700 Largest Law Firms, including rates for major firms in San Francisco. The result of the 2000/2001 survey, which reflects data through August 1, 2000, demonstrates that the average associate rate for 2000/2001 is \$216.50 an hour, with an average low-end rate of \$151 and an average high-end rate of \$282. The 2002/2003 survey, which reflects data through January 1, 2002), demonstrates that the average associate rate is \$253, with an average low-end rate of \$176 and a high-end rate of \$330. TURN argues that because the 2002/2003 survey only reflects data through January 1, 2002, a 5% increase for 2003 rates would make the average associate hourly rate closer to \$265.

Freedman requests a 25% increase over the rate we approved for him in 2002, which is a very substantial increase when viewed on a year-to-year basis. Based upon Freedman's experience, his work performed in this proceeding, and a comparison of market rates for attorney of similar experience and qualifications, we award Freedman a rate of \$225 per hour for the work performed in 2003.

3. Robert Finkelstein

TURN seeks an hourly rate of \$340 for work performed by Finkelstein in 2002. The Commission has previously approved this rate for work performed by Finkelstein in 2002, and we find this rate reasonable.⁸

4. JBS Energy

TURN seeks an hourly rate of \$175 for work performed by William Marcus of JBS Energy in 2002, and an hourly rate of \$185 for work performed by Marcus in 2003. TURN also seeks an hourly rate of \$115 for work performed by Jeff Nahigian of JBS Energy in 2002. The Commission has previously approved these rates for work performed by Marcus in 2002 and 2003, and by Nahigian in 2002, and we find these rates reasonable.⁹

D. Costs

TURN requests \$9,033.00 for administrative costs associated with its work in this proceeding. The expenses for copying (\$7,552.00) and postage (\$1,442.00) are reasonable. We disallow the \$39.00 for miscellaneous expenses because TURN did not document this portion of its request.

⁸ See D.03-01-074, 2003 Cal. PUC LEXIS 59 * 10.

⁹ See D.02-11-020, 2002 Cal. PUC LEXIS 711 ** 10 - 11 (Marcus 2002), D.03-10-011 at 11 (Marcus 2003) and D.02-11-017, 2002 Cal. PUC LEXIS 716 * 13. (Nahigian).

5. Award

We award TURN \$ 219,866.00, as follows and as shown in Appendix A to this decision.

<u>Attorneys Fees</u>					
M. P. Florio	17.75 hours	X	\$350.00(2001)	=	\$ 6,213.00
M.P. Florio	258.25 hours	X	\$385.00(2002)	=	\$ 99,426.00
M.P. Florio	0.50 hours	X	\$192.00(2002) comp.	=	\$ 96.00
M.P. Florio	146.75 hours	X	\$435.00(2003)	=	\$ 63,836.00
M.P. Florio	18.00 hours	X	\$217.00(2003) comp.	=	\$ 3,906.00
M. Freedman	86.00 hours	X	\$200.00(2002)	=	\$ 17,200.00
M. Freedman	9.75 hours	X	\$225.00(2003)	=	\$ 2,194.00
R. Finkelstein	5.75 hours	X	\$340.00(2002)	=	\$ 1,955.00
				Subtotal	\$194,826.00
<u>Expert Witness Costs</u>	<u>JBS Energy, Inc.</u>				
W. Marcus	83.74 hours	X	\$175.00(2002)	=	\$ 14,655.00
W. Marcus	4.08 hours	X	\$185.00(2003)	=	\$ 755.00
J. Nahigian	4.75 hours	X	\$115.00(2002)	=	\$ 546.00
JBS travel expenses					\$ 90.00
				Subtotal	\$ 16,046.00
<u>Other Costs</u>					
Photocopies					\$ 7,552.00
Postage					\$ 1,442.00
				Subtotal	\$ 8,994.00
TOTAL					\$219,866.00

Consistent with previous Commission decisions, we will order that interest be paid on the award amount (calculated at the three-month commercial paper rate), commencing the 75th day after TURN filed its compensation request and continuing until full payment of the award is made. Because this proceeding involved primarily issues common to all three major California investor-owned electric utilities, the responsibility to pay this award shall be apportioned among PG&E, SDG&E, and Edison based upon their respective 2002 California jurisdictional electric revenues.

As in all intervenor compensation decisions, we put TURN on notice that the Commission staff may audit TURN's records related to this award. Thus, TURN must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. TURN's records should identify specific issues for which it requests compensation, the actual time spent by each employee, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation may be claimed.

6. Waiver of Comment Period

Pursuant to Rule 77.7(f)(6) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment may be waived because this is an intervenor compensation decision.

7. Assignment of Proceeding

Carl W. Wood and Geoffrey F. Brown are the Assigned Commissioners and Thomas R. Pulsifer is the assigned ALJ in this proceeding.

Findings of Fact

1. TURN has made a timely request for compensation for its contribution to D.02-03-055, D.02-04-067, D.02-11-022, D.02-12-027, D.03-04-030, D.03-05-034, D.03-06-035, D.03-07-030, D.03-07-028 and D.03-08-076.
2. TURN has shown significant financial hardship based on a rebuttable presumption drawn from earlier ALJ rulings.
3. TURN has requested hourly rates for attorneys Florio, Freedman, and Finkelstein for 2001 or 2002, and hourly rates for JBS Energy experts Marcus and Nahigian for 2002 or 2003, that are consistent with rates we have approved in prior Commission decisions.
4. TURN has requested an hourly rate for Florio for 2003 that is no greater than the market rate for individuals with comparable training and experience.
5. The 2003 rate we approve for Freedman is no greater than the market rate for individuals with comparable training and experience.
6. The costs incurred by TURN, as modified above, are reasonable.

Conclusions of Law

1. TURN has fulfilled the requirements of §§ 1801-12, which govern awards of intervenor compensation.
2. TURN should recover compensation for its attorneys' fees and expert fees and costs.
3. TURN should recover compensation for its reasonable costs.
4. TURN should be awarded \$ 219,866.00 for its contribution to D. 02-03-055, D.02-04-067, D.02-11-022, D.02-12-027, D.03-04-030, D.03-05-034, D.03-06-035, D.03-07-030, D.03-07-028 and D.03-08-076.
5. This order should be effective today so that TURN may be compensated without unnecessary delay.

O R D E R

IT IS ORDERED that:

1. The Utility Reform Network (TURN) is awarded \$219,866.00 in compensation for its substantial contribution to Decision (D.) 02-03-055, D.02-04-067, D.02-11-022, D.02-12-027, D.03-04-030, D.03-05-034, D.03-06-035, D.03-07-030, D.03-07-028 and D.03-08-076.
2. The responsibility to pay TURN's award shall be apportioned among Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E) and Southern California Edison Company (Edison) based upon their respective 2002 California jurisdictional electric revenues. PG&E, SDG&E, and Edison shall pay their respective share of TURN's award to TURN within 30 days of the effective date of this order. PG&E, SDG&E, and Edison shall also pay interest on the award at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15, with interest, beginning January 17, 2004, the 75th day after TURN filed its compensation request, and continuing until full payment of the award is made.

This order is effective today.

Dated February 11, 2004, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

Compensation Decision Summary Information

Compensation Decision:	D0402017
Contribution Decision(s):	D0203055, D0204067, D0211022, D0212027, D0304030, D0305034, D0306035, D0307030, D0307028, and D0308076.
Proceeding(s):	R.0201011
Author:	ALJ Pulsifer
Payer(s):	Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Reason Change/Disallowance
The Utility Reform Network	October 27, 2003	\$220,158.00	\$219,866.50	Failure to justify hourly rate; undocumented expenses; arithmetic errors

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Michel	Florio	Attorney	The Utility Reform Network	\$350	2001	\$350
Michel	Florio	Attorney	The Utility Reform Network	\$385	2002	\$385
Michel	Florio	Attorney	The Utility Reform Network	\$435	2003	\$435
Matthew	Freedman	Attorney	The Utility Reform Network	\$250	2003	\$225
Robert	Finkelstein	Attorney	The Utility Reform Network	\$340	2002	\$340
William	Marcus	Economist	The Utility Reform Network	\$175	2002	\$175
William	Marcus	Economist	The Utility Reform Network	\$185	2003	\$185
Jeff	Nahigian	Economist	The Utility Reform Network	\$115	2002	\$115